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C O N F I D E N T I A L SECTION 01 OF 02 BAGHDAD 002959

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SUBJECT: REPORTED CHANGES AT THE DE-BAATHIFICATION
COMMISSION

Classified By: Political Counselor Margaret Scobey for reasons 1.4 (B)
and (D).

¶1. (C/REL UK) SUMMARY. In an August 9 meeting, National De-Baathification Commission (NDC) General Secretary Talib Al-Muhanna (a Jafari holdover) said that Jalal Ad-Din Al-Sagheer was the new temporary Chairman of the NDC, with a mandate to remain in the position until the Council of Representatives (COR) passes legislation to alter the commission's structure. During this period, he claimed, the commission will focus on reconciliation. Activities, including the issuance of new de-Baathification orders and the implementation of outstanding orders, will be suspended. Al-Muhanna noted that a new legal committee had just met that day to begin drafting legislation that would be consistent with the new focus of the commission, and would restrict the number of people subject to future de-Baathification orders. End Summary.

New Temporary Chairman

¶2. (C/REL UK) Al-Muhanna told Poloff that former Chairman Ahmad Chalabi had not appeared at the commission for more than two months at the time of his removal. According to administrative labor law, which NDC follows due to its quasi-governmental nature, the chairman of a commission cannot leave his post for more than five days without notifying the other commissioners. Although this means that Chalabi's removal was technically administrative in nature, Al-Muhanna freely admitted that he had initiated the action. He explained that during this critical time of reconciliation, it was imperative to have a coherent policy supported by an active chairman and that he felt it was his duty to ensure proper leadership of the commission.

¶3. (C/REL UK) Al-Muhanna noted that Chalabi's two deputy chairmen had been PM Nuri Al-Maliki and COR member/Buratha Mosque Imam Jalal Ad-Din Al-Sagheer. Therefore, he reasoned, one of them would be the obvious choice to replace Chalabi. Al-Muhanna said he had held informal talks with the commissioners, including Al-Maliki and the Chairman of the COR de-Baathification Committee, Falah Al-Hemedawi (Sadr Movement). After some discussion, all agreed that Al-Sagheer should become the acting chairman. (NOTE: Al-Muhanna noted that technically Al-Sagheer's appointment was against Article 49(b) of the Constitution, since he is a member of COR, however he reasoned that Al-Maliki has formally remained as deputy chairman, although he is also PM. END NOTE.)

¶4. (C/REL UK) According to Al-Muhanna, Al-Sagheer's appointment is to be for a temporary period only. During that time, no new de-Baathification orders are to be signed, and orders previously issued will not be implemented. Instead, the NDC will focus on drafting legislation for the

COR De-Baathification Committee to introduce at the start of the next session. He said that he had discussed the idea with Al-Hemedawi, who agreed, and that a newly formed legal committee within the commission had met for the first time that day.

Legislation Will Limit Scope of Activities

¶5. (C/REL UK) The new legislation will reflect the Commission's new focus on reconciliation, both in changes to structure and to policy. Al-Muhanna said that the current commission would definitely be eliminated, to be replaced by a new structure for the executive body. He compared his vision to that which exists within the Commission on Public Integrity (CPI). He noted that CPI's commissioners had been selected on the basis of technical ability and knowledge, not allocated on the basis of political party affiliation. He claimed that he wanted to see a similar structure in the commission of the NDC, however when asked who should have the authority to appoint these technocrat-commissioners, his answer was vague and ended with "the COR can decide that." Al-Muhanna emphasized that the rest of the commission should remain the same.

¶6. (C/REL UK) In addition to structural changes, Al-Muhanna previewed the policy changes that would be contained in forthcoming legislation. He stated that previous commission policy was to eradicate all elements of Baathism) both the actual members and the ideology) from public life. To bring the de-Baathification process in line with reconciliation policy, he proposed legislation limiting the scope of NDC's actions. Under the new policy, former

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Baathists who did not participate in crimes under the previous regime, and who are not associated with "terrorist activities," will be exempt from de-Baathification and allowed to retain their employment and positions. The determination regarding terrorist activities will be made after a review of records from the security ministries, and will take into consideration testimonials from ministers and supervisors.

¶7. (C/REL UK) Al-Muhanna claimed the NDC legal committee will now meet 3 times per week to discuss appeals, rather than the previous standard of one day per week. The exceptions process, which allowed former Baathists who had not committed crimes to be reinstated, will no longer be necessary. In addition, Al-Muhanna claimed the NDC may return over 1000 people who were previously de-Baathified to their prior employment. (NOTE: He had no idea how this would logistically be possible, and admitted that the details had not yet been considered. END NOTE.) Key sections of the commission, like the Educational Directorate, will also shift their focus from attacking Baathist principles to encouraging reconciliation.

Comment

¶8. (C/REL UK) Al-Muhanna has been inserting reconciliation language into his conversations with us since early May, however this is the first time he has discussed concrete plans to soften the commission's approach. If the NDC proceeds in the direction Al-Muhanna described, it could mark a major step toward reform of the non-transparent de-Baathification process. The lack of clear mechanisms to select commissioners and to determine which individuals are exempt from de-Baathification leaves open numerous possibilities for the same abuses of the system that we have long seen. The disposition of the Sadrist COR committee chair will be at least as important as that of Al-Muhanna and other NDC staff.
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